



**PATENT APPLICATION**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Masaaki KURIHARA et al.

Group Art Unit: 1756

Application No.: 10/614,345

Examiner: J. RUGGLES

Filed: July 8, 2003

Docket No.: 123770

For: PHASE MASK FOR FORMING DIFFRACTION GRATING, METHOD OF  
FABRICATING PHASE MASK AND METHOD OF FORMING DIFFRACTION  
GRATING

**RESPONSE TO RESTRICTION REQUIREMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

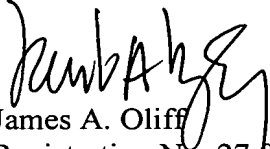
In reply to the May 2, 2005 Restriction Requirement, Applicants provisionally elect  
Group I, claims 1-12, with traverse.

It is also respectfully submitted that the subject matter of all claims 1-14 is sufficiently  
related that a thorough search for the subject matter of any one Group of claims would  
encompass a search for the subject matter of the remaining claims. Thus, it is respectfully  
submitted that the search and examination of the entire application could be made without  
serious burden. See MPEP §803 in which it is stated that "if the search and examination of an  
entire application can be made without serious burden, the examiner must examine it on the  
merits, even though it includes claims to independent or distinct inventions" (emphasis  
added). It is respectfully submitted that this policy should apply in the present application in  
order to avoid unnecessary delay and expense to Applicants and duplicative examination by  
the Patent Office.

In addition, Applicants submit that the claims of Group I include a product (a phase mask) and the claims of Group II include a method of using that product. Accordingly, upon allowance of the product claims, the method claims must be rejoined and examined. *See* MPEP §821.04. To avoid the delay and expense of sequential prosecution of the claims of Group I and Group II, Applicants request that the claims of Group II be rejoined presently.

For the foregoing reasons, reconsideration and withdrawal of the Restriction Requirement are respectfully requested.

Respectfully submitted,

  
James A. Oliff  
Registration No. 27,075

Jacob A. Doughty  
Registration No. 46,671

JAO:JAD/tje

Date: June 2, 2005

**OLIFF & BERRIDGE, PLC**  
**P.O. Box 19928**  
**Alexandria, Virginia 22320**  
**Telephone: (703) 836-6400**

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